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10/588,705	08/08/2006	Markus Weinlander	2003P18371WOUS	2427

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EXAMINER
STITT, ERIK V

ART UNIT	PAPER NUMBER
2174	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/588,705	WEINLANDER, MARKUS
	Examiner	Art Unit	
	Erik V. Stitt	2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _06 August 2006_.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _13-30_ is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _13-30_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on _06 August 2006_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☒ All   b) ☐ Some * c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _06 August 2006_.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

> Data structures not claimed as embodied in computer-readable media are descriptive material per se
> and are not statutory because they are not capable of causing functional change in the computer. See,
> e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held
> nonstatutory). Such claimed data structures do not define any structural and functional
> interrelationships between the data structure and other claimed aspects of the invention which permit
> the data structure's functionality to be realized. See MPEP 2106.01

2.   Claims 13-22 are rejected under 35 U.S.C. 101 because the claims are directed
towards non-statutory subject matter. Claims 1-15 claim a "device" that is entirely
software. One option of putting the entirely software device on a physical thing would be
to merely clarify the claim preamble for the independent claim 13, and explicitly describe
that the software of claims 13-22 are executed by a computing device. This would clarify
that the entirely software claims of 13-22 are not abstract.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that
form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public
> use or on sale in this country, more than one year prior to the date of application for patent in the United
> States.

4.   Claim 13, 16-25, 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated
by San Andres et al ("Andres", US 2002/0124082)

Claim 13:

San Andres discloses a first and a second application *(figure 3 shows a hierarchical resource explorer that allows a user to navigate different applications, further, the hierarchy can represent different on-line services or other content entities [abstract]* a folder having a folder property processed by the first application *(each hierarchical folder node (i.e., each application represented by a node) has a set of properties that are used to launch the particular application service for example [0008])* a folder icon representing the folder and displayed via the display mechanism *(figure 3 shows how each folder node (i.e., each application represented by a node) has a icon)* a first application link linked to the first application *(figure 3 shows how each application has a root node link that links to that folder (i.e., the root node links to the properties and content for that particular application))* the link displayed via the display mechanism *(figure 3 shows how the root node link is displayed for each application)*

San Andres further discloses an object having an object property processed by the second application *(folders have content objects [0084])* an object icon representing the object and displayed via the display mechanism *(content objects of a folder have an icon [0084])* a second application link linked to the second application, the link displayed via the display mechanism *(figure 3 shows how each application has a root node link that links to that folder (i.e., the root node links to the properties and content for that particular application))* and a folder selection mechanism for displaying a content of the folder *(figure 3 shows how each folder node (i.e., each application represented by a*

node) has a icon) wherein the first application is selected via the fist application link,

wherein the second application is selected via the second application link *(figure 3 shows*

how each application has a root node link that links to that folder (i.e., the root node

links to the properties and content for that particular application) and wherein the folder

includes an element selected from the group consisting of a further folder, the object, and

combinations thereof *(folders have content objects [0084])*

Claim 16:

San Andres discloses that structured data is structured in the form of a tree structure

(figure 3 shows a hierarchical tree)

Claim 17:

San Andres discloses that a display of the first application link is displayed on a same

logical level as the folder icon *(figure 3 shows how the content link is displayed with an*

icon and the name of the folder)

Claim 18:

San Andres discloses that the display of first application link includes an icon *(figure 3*

shows how the content link is displayed with an icon and the name of the folder)

Claim 19:

San Andres discloses a display of the first application link is included in the display of

the folder content *(figure 3 shows how the name of the selected application folder is*

displayed along with the contents of the folder (e.g., Categories (US))

Claim 20 is similar in scope to claim 15, and is therefore rejected under similar rationale.

Claim 21:

San Andres discloses a selection mechanism; and a textual information for the first

application, wherein the textual information is displayed when the selection mechanism is

in a proximity of the first link *(figure 3 shows how the name of the selected application*

folder is displayed along with the contents of the folder (e.g., Categories (US) when the

user selects the folder (i.e., is in a proximity to the folder))

Claim 22:

San Andres discloses that the textual information is dependent on the position of a

display element positioned on a display area of the display mechanism *(figure 3 shows*

how the name of the selected application folder is displayed along with the contents of

the folder (e.g., Categories (US) when the user selects the folder (i.e., is in a proximity to

the folder))

Claim 23 is similar in scope to claim 1, and is therefore rejected under similar rationale.

Claim 24-25 are similar in scope to claims 16-17, and are therefore rejected under similar

rationale.

Claim 27-29 are similar in scope to claims 21-22, and are therefore rejected under similar

rationale.

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Claim Rejections - 35 USC § 103

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5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

1.   Claims 14, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over San

Andres et al ("Andres", US 2002/0124082) in view of Yeung et al. ("Yeung", 7, 171,

468).

Claim 14:

San Andres discloses that each folder node has a set of folder properties (e.g., each node

can have a property that is used to launch components for that application) [0008], and

using the Windows Explorer to access the hierarchical content [0080]. San Andres does

not explicitly disclose that the folder properties are copyable. However, Yeung is

analogous art that also describes using the Windows Explorer to access hierarchical

content [figure 18]. It would have been obvious to an artisan at the time of the invention

to combine San Andres with Yeung, because Yeung discloses that the Windows Explorer

allows a user to select and copy a folder [Col 4 57-58] so that a user can paste the item to an alternate location using the cut-and-paste tools [figure 60].

Claim 26 is similar in scope to claim 14, and is therefore rejected under similar rationale.

6.   Claims 15, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over San Andres et al ("Andres", US 2002/0124082) in view of Gilkas et al. ("Gilkas", 7, 017, 121).

Claim 15:

San Andres discloses using the Windows 95 Explorer [0080]. San Andres does not explicitly disclose that the element is generated during the configuration of an industrial automation system. However, Windows is a widely known operating system that can be used in a variety of industries, and elements within the Windows Explorer hierarchical tree can be applications corresponding to a variety of industries. Gilkas is analogous art that also describes using a hierarchical tree in the Windows 95 Explorer [Col 4 49-52]. It would have been obvious to an artisan at the time of the invention to combine San Andres with Gilkas, because Gilkas discloses that hierarchical trees like Windows Explorer can be used in an industrial automation system [Col 1 7-10], because industrial automation applications have specific software components that need to be organized [Col 1 44-46].

Claim 30 is similar in scope to claim 15, and is therefore rejected under similar rationale.

Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erik V. Stitt whose telephone number is (571)270-5064. The examiner can normally be reached on M-R 9:00 AM - 7:00 PM EST.

If attempts to reach t xaminer by telephone are unsuccessful, the examiner's supervisor, Steven Hong can be reached on (571)272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EVS   2/07/2009
/Peng Ke/

Primary Examiner, Art Unit 2174